



Employment Policies for the State of North Dakota

MODIFIED DUTY / RETURN TO WORK

Effective Date: 11/1/2018

The State of North Dakota, as the employer, has established a Modified Duty Program that complies with the Americans with Disabilities Act, helps to minimize Workers Compensation costs, and to assist employees who are temporarily unable to perform their position's assigned job duties. This policy applies to all employees regardless of status.

The State may, at its sole discretion, provide modified job assignments to injured workers on a temporary basis. Modified assignments under this policy are specially created temporary job assignments, and are not vacant or regular positions within the State's workforce. The availability of such modified assignments depends on the employee's work restrictions and the business needs of the State.

If a modified duty assignment is available, an employee will be permitted to work in a modified duty assignment only after the State receives a written statement from employee's treating health care provider approving the assignment for the injured employee. In general, the State will review the status of the temporary modified duty assignment with the affected employee every 30-90 days, in light of the State's business needs and the employee's condition, to determine if continuation of the assignment is appropriate.

If a modified duty assignment is offered by the employer and approved by the employee's physician, an employee's refusal to accept the offer of modified duty may affect the employee's right to workers' compensation benefits under applicable law.

Modified assignments are not available to employees on an ongoing basis under any circumstances.

The existence of this modified duty policy does not in any way guarantee that modified duty will be available at any given time, or for any particular employee who requests it.

If at any point an employee is medically determined to have sustained permanent restrictions, the creation or continuation of a temporary modified duty assignment will not be considered. In that event, the State will review the employee's situation to determine the appropriate steps to be taken, if any, based on existing State and Federal laws, rules, and policies.

Any employee who is determined to have violated this policy will be subject to disciplinary action up to and including termination of employment.

References: Americans with Disabilities Act of 1990 (ADA) and ADA Amendments Act of 2008